



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC**

Issued by the Department of Transportation on September 18, 1998

NOTICE OF ACTION TAKEN -- DOCKET OST-98-4328

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Application of **American Airlines, Inc.** filed **8/14/98** for:

XX Exemption under 49 U.S.C. 40109 to provide the following service:

Scheduled foreign air transportation of persons, property and mail between Chicago, Illinois, and Moscow, Russia.

XX Allocation of seven weekly U.S.-Russia combination frequencies to operate the above service

Delta Air Lines, Inc. and United Air Lines, Inc. filed answers to American's application. Delta objects to American's application to the extent that Delta's frequencies would be taken away and allocated to American. Delta states that it has firm plans to begin its additional code-share service and thus, to use all of its allocated frequencies, upon approval from the Russian government. United takes no position on American's application, as long as the frequency allocation to American does not affect United's allocation of seven weekly frequencies. American filed a reply, stating that there are sufficient frequencies and designations available to grant American's application, and that the Department should do so promptly.

Applicant rep: **Carl B. Nelson, Jr. (202) 496-5647** DOT Analyst: **Sylvia Moore (202) 366-6519**

DISPOSITION

XX **Granted** (subject to conditions, see below)

The exemption authority granted was effective when taken: **September 18, 1998**, through **September 18, 2000**

The frequency allocation was effective when taken: **September 18, 1998**, and will remain in effect, provided that American continues to hold the necessary underlying authority to serve the Chicago-Moscow market.

**Action taken by: Paul L. Gretch, Director
Office of International Aviation**

XX The authority granted is consistent with the Air Transport Agreement between the United States and the Russian Federation, entered into force January 14, 1994. Although the Annexes to the Agreement expired May 31, 1997, they continue to be invoked by both parties as the operative source of the rights governing the relationship.

(See Reverse Side)

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

XX Holder's certificate of public convenience and necessity

XX Standard Exemption Conditions (attached)

Conditions: Consistent with our standard practice, the frequency allocation granted is subject to the condition that it will expire automatically and the frequencies will revert to the Department for reallocation if they are not used for a period of 90 days. The 90-day dormancy period will begin June 1, 1999, American's proposed startup date for its Chicago-Moscow service.

Remarks: Under the Air Transport Agreement between the United States and the Russian Federation, up to six U.S. carriers may be designated to operate a total of 54 weekly scheduled combination frequencies. Delta, Continental, Alaska, Northwest and United have been designated to provide service in the U.S.-Russia market, and each was allocated frequencies. However, Continental's seven frequencies have reverted to the Department for reallocation. We have decided to grant American's exemption application and allocate it seven weekly frequencies to operate in the Chicago-Moscow market. As frequencies were available for American's service, there was no need to reallocate frequencies currently held by the other U.S. carriers. Thus, there was no need to withhold action on American's application based on the concerns raised by Delta and United.

On the basis of data officially noticeable under Rule 24(n) of the Department's regulations, we found the applicant qualified to provide the services authorized.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) immediate action was required and was consistent with Department policy; (2) grant of the authority was consistent with the public interest; and (3) grant of the authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975. To the extent not granted, we denied all requests in the referenced Docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within ten (10) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

*An electronic version of this document is available on the World Wide Web at:
<http://dms.dot.gov/general/orders/aviation>*

APPENDIX

U.S. Carrier **Standard Exemption Conditions**

In the conduct of operations authorized by the attached notice, the applicant(s) shall:

- (1) Hold at all times effective operating authority from the government of each country served;
- (2) Comply with applicable requirements concerning oversales contained in 14 CFR (for scheduled operations, if authorized);
- (3) Comply with the requirements for reporting data contained in 14 CFR 241;
- (4) Comply with requirements for minimum insurance coverage, and for certifying that coverage to the Department, contained in 14 CFR 205;
- (5) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (6) Comply with the applicable requirements of the Federal Aviation Administration Regulations; and
- (7) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department of Transportation, with all applicable orders and regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

The authority granted shall be effective only during the period when the holder is in compliance with the conditions imposed above.